

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

EMERY D. CHAMBERS,
Defendant.

ORDER AND MEMORANDUM
DECISION

Criminal Case No. 2:04-CR-533 TC

Mr. Emery D. Chambers has filed a motion for reduction of term of imprisonment pursuant to 18 U.S.C. Section 3582 (Dkt. 76). In an attempt to clarify the relief Mr. Chambers is seeking, the court sent him a letter questioning whether the motion might more appropriately be brought under the provisions of 28 U.S.C.A. § 2255. Mr. Chambers responded to the court's letter but his response provided no clarification.

The court has determined that the relief Mr. Chambers seeks would be more appropriately brought as a § 2255 petition and the court will treat it as such. But Mr. Chambers' § 2255 petition must be denied because it is time-barred. On May 4, 2005, Mr. Chambers pled guilty to conspiracy to possess methamphetamine with intent to distribute and possession of a firearm in furtherance of drug trafficking. He was sentenced on September 1, 2005, and the Judgment was entered on September 6, 2005. Mr. Chambers did not file an appeal.

In this case, the one-year limitation period began to run on September 1, 2005 (the date on which the judgment of conviction became final). Therefore, for his petition to be timely, Mr.

Chambers' § 2255 petition had to be filed no later than September 1, 2006. Mr. Chambers filed his motion for reduction of term of imprisonment on January 27, 2011, more than five years after his date of conviction became final. Consequently, his §2255 petition is time-barred.

ORDER

For the foregoing reason, the § 2255 petition is DENIED.

DATED this 23rd day of February, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Court Judge